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SOCIAL AND HUMAN RIGHTS QUESTIONS

HUMAN RIGHTS

Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council**

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Introduction

1. Article 62 of the Charter of the United Nations provides that the Economic and Social Council may make recommendations for the purpose of promoting respect for, and observance of human rights and fundamental freedoms for all. Article 22 of the International Covenant on Economic, Social and Cultural Rights provides that the Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports submitted under the Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the Covenant.

2. The role of the United Nations High Commissioner for Human Rights is to help promote and protect all human rights, economic, social and cultural, and civil and political. The Office of High Commissioner (OHCHR) does this by seeking to contribute to the efforts of the principal organs of the United Nations. This report, submitted by the acting High Commissioner for Human Rights, Bertrand Ramcharan, provides information on developments in the human rights area that are likely to be of particular interest to the Council. Taking into account the mandate of the Council, this report concentrates on the human rights dimension of the work in the following substantive areas: (a) the millennium development goals; (b) poverty reduction; (c) health; (d) HIV/AIDS; (e) education; (f) food; (g) housing; (h) disability; (i) trafficking in persons; and (j) globalization and trade.

I. THE MILLENNIUM DEVELOPMENT GOALS

3. Human rights provide a compelling normative underpinning for the formulation of national and international development policies towards achieving the millennium development goals. They have the potential to empower people, guide policy makers, identify benchmarks of progress, and establish clear responsibilities and accountability. As a consequence of the adoption of the concept of rights, the realization of the goals becomes a legal obligation. It compels policy makers to focus on the most vulnerable and disadvantaged, those who are often excluded by "average progress".

4. The activities of human rights treaty monitoring bodies contribute to the implementation of the goals. While analysing reports of States parties, the treaty bodies consider country policy, law and practice, and advise Governments on shortcomings and possible improvements. This dialogue, although focusing on treaty obligations, provides, given the link between human rights and the goals, an important support to the latter. The treaty bodies through their general comments contribute to the clarification of the legal and policy ramifications of the implementation of the human rights standards and thus provide an invaluable input to the concretization and realization of the goals.

5. Among the recent general comments adopted by the treaty bodies, which are of relevance in this context, are the comments on: the right to housing by the Committee on Economic, Social and Cultural Rights (CESCR) (No. 4 of 1991 and No. 7 of 1997); plans of action for primary education by CESCR (No. 11 of 1999); the right to adequate food by CESCR (No. 12 of 1999); women and health by the Committee on the Elimination of Discrimination against Women (CEDAW) (No. 24 of 1999); gender-related dimensions of racial discrimination

by the Committee on the Elimination of Racial Discrimination (CERD) (No. XXV of 2000); the right to the highest attainable standard of health by CESCR (No. 14 of 2000); and the right to water by CESCR (No. 15 of 2002). The general comment on the right to health also addresses the right to maternal, child and reproductive health and the right to healthy natural and workplace environments. Finally, the treaty bodies facilitate the dialogue between Governments and civil society and thus contribute to a participatory approach to the problems discussed.

6. Special mechanisms of the Commission on Human Rights are another important instrument of the United Nations human rights programme in the implementation of the goals. Special rapporteurs and independent experts provide advice to Governments and non-governmental actors, as well as to international organizations on various aspects of the implementation of human rights and related issues. In particular, those special rapporteurs and independent experts who are active in the social and economic areas make an important contribution to the implementation of the goals. The Commission on Human Rights has in recent years established several mandates which should be mentioned in this context, namely the special rapporteurs and independent experts focusing on the right to education, food, housing, health, toxic waste, and wider issues such as the right to development, violence against women, the sale of children, migrants and indigenous populations. Special procedures dealing with civil and political rights also play an important role in the achievement of MDGs. Access to justice, freedom of expression and the right to personal security are, for example, necessary components of a human rights-informed poverty reduction strategy. Another example is the negative impact that the lack of freedom of expression can bear on efforts to prevent the spread of HIV/AIDS, hindering the capacity of individuals to express their views and become adequately informed about the various aspects of the problem, with discriminatory effects on those affected by the disease.

II. POVERTY REDUCTION

7. The Commission on Human Rights has stated that "extreme poverty and exclusion from society constitute a violation of human dignity". In his 2001 report "Road map towards the implementation of the United Nations Millennium Declaration" (A/56/326), the Secretary-General pointed out that 1.2 billion people live on one dollar a day or less, and made the reduction of poverty the first goal among the millennium development goals.

8. In 1998, the Commission on Human Rights decided to appoint an independent expert on the question of human rights and extreme poverty whose mandate would embrace, inter alia, evaluation of the relationship between human rights and extreme poverty, reports to the Commission, and recommendations and proposals concerning technical assistance. In recent years, the independent expert has focused her annual reports on decentralization as a means to combat poverty and civil registry systems as a means to help the poor to ascertain their citizenship and to enjoy their rights, including to property, to inherit, to social benefits, and to complain and claim their rights before the court. In her last report (E/CN.4/2003/52) the independent expert recommended that the civil registration services in countries which had neglected or abandoned them be reorganized as a matter of priority, a recommendation that had appeared in her previous report (E/CN.4/2002/55). The report also referred to the ongoing constructive dialogue with international financial institutions with a view to persuading them to mainstream respect for all human rights in their activities. The independent expert recently visited Bolivia, Benin and the Dominican Republic.

9. The Sub-Commission on the Promotion and Protection of Human Rights continues its work to develop an approach to poverty reduction based on the universality, indivisibility and interdependence of all human rights drawing, inter alia, on the results of the Expert Seminar on Human Rights and Extreme Poverty organized by OHCHR in 2001. In 2001, the Sub-Commission requested four experts to prepare a working paper on the need to develop guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty. On the basis of their report (E/CN.4/Sub.2/2002/15), in 2002 the Sub-Commission requested five of its members to continue the work on this question over a three-year period.

10. In recent years poverty has retained its central position in the work of the Committee on Economic, Social and Cultural Rights. In 2001, the Committee adopted a statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/2002/22-E/C.12/2001/17, annex VII). The statement gives, for the first time, a definition of poverty from a human rights perspective: "a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights". The Committee added that "it is imperative that measures be urgently taken to remove these global structural obstacles - such as unsustainable foreign debt, the widening gap between rich and poor and the absence of an equitable multilateral trade, investment and financial system - otherwise the national anti-poverty strategies of some States have a limited chance of sustainable success". The statement consolidated prior concerns and experience of the Committee in reviewing country reports and engaging representatives of State parties to the Covenant.

11. In 2002, OHCHR developed draft guidelines on a human rights approach to poverty reduction strategies (http://www.unhchr.ch/development/poverty.html), providing development practitioners with operational guidance on how to integrate human rights into national poverty reduction strategies, including poverty reduction strategy papers (PRSP). They provide ample illustration of how attention to human rights can reinforce each of the eight development goals.

12. Guided by the principles of a human rights approach (participation and empowerment, non-discrimination and equality, accountability, explicit linkage to national and international human rights norms and standards), the draft guidelines include a set of operational guidelines for a number of specific human rights, such as the rights to adequate food, to health, to education, to decent work, to adequate housing, to personal security, and to equal access to justice, and political rights and freedoms. The draft guidelines have taken up the challenge of bridging the gap between development and normative approaches. They will be piloted through substantive consultations and field testing during 2003-2004. Lessons learned will help in the work addressing other millennium development goals.

III. HEALTH

13. Poor health is a key impediment to human development. It contributes to poverty by eroding economic productivity, diminishing educational opportunities and achievements, and further marginalizing certain populations. Conversely, good health is both a key outcome of

development and a crucial means for its achievement. This dynamic is reflected in the millennium development goals, four of which are directly health related: to reduce maternal mortality; to reduce child mortality; to have halted and begun to reverse the spread of HIV/AIDS, the scourge of malaria and other major diseases that afflict humanity; and to ensure environmental sustainability.

14. As noted by the Committee on Economic, Social and Cultural Rights in its general comment No. 14 on the right to health, the right extends to timely and appropriate health care, as well as to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health. It includes the right to control one's health as well as the right to a system of health protection (i.e. health care and the underlying determinants of health) that provide equality of opportunity for people to enjoy the highest attainable standard of health. The right to health is also closely related to the enjoyment of a number of other human rights and fundamental freedoms.

15. Key elements of a human rights approach to health include a focus on human dignity; addressing the situation of vulnerable groups and the root causes of vulnerability; addressing gender inequalities; ensuring non-discrimination and equality in access to health care, goods and services; encouraging the participation of beneficiaries in decision-making processes; making explicit linkages to human rights norms and standards; articulating Governments' obligations and identifying benchmarks and indicators for measuring the implementation of such obligations. This approach also involves using human rights as a framework for assessing and addressing the human rights implications of health-related policies, programmes and legislation, as well as for assessing the overall performance of Governments.

16. Recognizing the importance of the human right to health and of the need for monitoring and accountability, the Commission on Human Rights decided in 2002 to appoint, for a period of three years, a special rapporteur whose mandate would focus on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Commission requested the special rapporteur to collect and exchange right-to-health information; to develop a dialogue with all relevant actors; to report on the status, throughout the world, of the right to health, including laws, policies, good practices and obstacles; and to make recommendations.

17. In his preliminary report to the Commission in April 2003 (E/CN.4/2003/58), the Special Rapporteur outlined his general approach and identified three primary objectives for the mandate: to promote the right to health as a fundamental human right; to clarify the contours and content of the right to health; and to identify good practices for the operationalization of the right to health at the community, national and international levels. Two interrelated themes will guide the work of the Special Rapporteur: poverty and the right to health (in this context the report briefly considers the health-related millennium declaration goals) and discrimination and stigma in the context of the right to health. From the right-to-health perspective, the Special Rapporteur plans also to address such issues as poverty reduction strategies, neglected diseases, impact assessments, relevant World Trade Organization agreements, mental health and the role of health professionals.

IV. HIV/AIDS

18. People affected by HIV/AIDS are not only confronted with the physical and mental effects of the illness, but are often also vulnerable to discrimination in relation to health services, education, work and family life. This worsens the impact of the disease. At the same time, lack of respect for human rights in general makes certain people more vulnerable to HIV infection and to the social and economic effects of the disease. In particular, gender inequalities add to the spread of the epidemic and its disproportionate impact on women. On the other hand, safeguarding human rights contributes to reducing vulnerability to HIV infection and alleviating the negative impact of the epidemic.

19. The Declaration of Commitment on HIV/AIDS adopted by the General Assembly at its special session in 2001 identifies goals and targets for all States based on human rights law and principles in four areas: prevention of new infections; provision of improved care, support and treatment for those infected with and affected by HIV/AIDS; reduction of vulnerability; and mitigation of the social and economic impact of HIV/AIDS. OHCHR has been working closely with the Joint United Nations Programme on HIV/AIDS (UNAIDS) to strengthen the capacity of the United Nations human rights system to address the human rights dimensions of HIV/AIDS. The Office also supports the integration of the protection and promotion of human rights into national responses to HIV/AIDS and provides global and regional advocacy, including by encouraging Governments, non-governmental organizations, other members of civil society and national and international organizations to address the human rights dimensions of HIV/AIDS throughout their policies and activities. A key outcome of the OHCHR partnership with UNAIDS was the publication of International Guidelines on HIV/AIDS and Human Rights, (E/CN.4/1997/37, annex) which provide a framework for States and other actors to orient and design policies, programmes and practice to ensure respect for human rights of persons affected by HIV/AIDS. In 2002 OHCHR and UNAIDS produced a revised guideline 6 (www.unhchr.ch/hiv/g6) with guidance for States and other actors on issues related to access to prevention, treatment, care and support in the context of HIV/AIDS.

20. OHCHR also supports the work of the human rights treaty bodies, including the development of interpretive texts such as general comment No. 3 on HIV/AIDS and the rights of the child adopted by the Committee on the Rights of the Child in 2003 and its draft general comment on adolescent health and development, which provide important guidance to States on HIV/AIDS and related issues. OHCHR and UNAIDS also provide the human rights treaty bodies with information on the background and status of the epidemic in priority countries, analyses of the links between HIV/AIDS and the core international human rights treaties, and identification of particular issues of concern.

21. OHCHR will continue to work closely with UNAIDS to promote the further understanding and implementation of human rights in the context of HIV/AIDS, including by effective dissemination of the Guidelines. Current priorities include:

(a) Strengthening collaboration between the OHCHR field offices and UNAIDS country programme advisers, and the United Nations Theme Group on HIV/AIDS;

(b) Strengthening the focus on HIV/AIDS-related human rights issues within the mandates and activities of national human rights institutions, including by developing training materials for national human rights institutions, drawing upon the Guidelines and on good practice examples from national institutions in all regions;

(c) Supporting special rapporteurs and independent experts in their endeavours to address HIV/AIDS-related human rights; and

(d) Gathering practical case studies that highlight how HIV/AIDS-related human rights can be addressed at the national level.

V. EDUCATION

22. Universal primary education is one of the millennium development goals. Despite the widely accepted recognition of education as a development tool for the reduction of poverty and inequality, more than 100 million children in the world still have no access to primary education. The vast majority of so called "out-of-school children" are found in developing countries, and most of them are girls. Discrimination in the field of education faced by women and girls has been clearly identified and documented, but it is also an area in which comparatively significant progress has been made. In 1990, developing countries had an average of 83 girls enrolled in primary schools for every 100 boys; by 2000 the proportion had increased to 88 girls per 100 boys.

23. The Committee on Economic, Social and Cultural Rights in its general comment No. 13 has described education as an "empowerment right". It is an essential factor in sustainable development and also "the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities" (para. 1). Applying a human rights approach to achieve universal primary education, the second millennium development goal, would require incorporating guarantees and positive actions with respect to education in development strategies in order to ensure non-discrimination and equal enjoyment of the right to education.

24. The obligation of Governments resulting from the right to education however, goes far beyond merely making primary education available. It requires effective progressive strategies, including removing practical and legal, as well as financial obstacles: practical obstacles, such as school buildings whose physical structure denies children with disabilities effective access; legal aspects, such as the lack of legal guarantees for non-citizens; financial aspects, such as direct or indirect fees in primary education or insufficient budgetary allocations. The education provided must also be of a certain quality and have a certain content that is adapted to the needs and best interests of the child, in a manner acceptable for the child and his/her parents.

25. In 1998, the Commission on Human Rights established the mandate of the Special Rapporteur on the right to education, which includes reporting on the status of the progressive realization of the right to education, in particular primary education, including on difficulties encountered; promoting the elimination of all forms of discrimination in education; and identifying ways and means to overcome existing obstacles to the full realization of this right. The Special Rapporteur's work has contributed significantly to a better understanding of the normative content of this right. The Special Rapporteur has undertaken six country missions -

to Indonesia, Northern Ireland, Turkey, Uganda, the United Kingdom and the United States of America - and has highlighted a variety of obstacles at the national and international levels to implementing the right to education for all. For example, in her last report (E/CN.4/2003/9) the Special Rapporteur analysed the implementation of the right to education in the context of the global rule of law, operationalizing rights-based education and human rights safeguards in education.

26. Human rights education is an important part of the implementation of the right to education. The General Assembly, in its resolution 49/184 proclaiming the United Nations Decade for Human Rights Education recognized that it is "a lifelong process by which people at all levels of development and in all strata of society learn respect for the dignity of others and the means and methods of ensuring that respect in all societies", and as such has a fundamental role towards the realization of all human rights. The High Commissioner has a particular responsibility in this regard, including that of coordinator of the Decade.

27. The International Plan of Action for the Decade focuses on supporting national and local initiatives and on the establishment and strengthening of partnerships between governmental and non-governmental actors. At the national level, Governments have been urged both by the General Assembly and the Commission on Human Rights to develop comprehensive, effective and sustainable national plans of action for human rights education. OHCHR has been contributing to the Decade's objectives by:

(a) Facilitating information-sharing among all Decade actors, through, for instance, the development of a database on human rights education) (http://www.unhchr.ch/hredu.nsf) and a specialized resource collection on human rights education in the OHCHR library. OHCHR has also organized or supported regional and subregional activities focusing on human rights education;

(b) Supporting national capacities through technical cooperation projects and the development of guidelines for national plans of action for human rights education (A/52/469/Add.1 and Add.1/Corr.1), in cooperation with the United Nations Educational, Scientific and Cultural Organization and several experts and practitioners;

(c) Assisting grass-roots human rights education initiatives, through the ACT (Assisting Communities Together) project, which provides small grants to civil society organizations. From 1998 to mid-2003, the ACT project has sponsored 369 local initiatives;

(d) Developing human rights training and education materials, in particular in the area of the rule of law (police, prison officials, judges, prosecutors and lawyers), and for human rights monitors and schoolteachers. These materials have been used by many organizations worldwide;

(e) Globally disseminating the Universal Declaration of Human Rights, which is available in more than 320 language versions through the OHCHR web site (http://www.unhchr.ch/udhr/index.htm). In 1999, the Universal Declaration was awarded the world record by the *Guinness Book of Records* as the most translated (universal) document in the world.

28. OHCHR has increasingly developed strategic cooperation with other United Nations agencies, in particular UNESCO. Partnerships have also been established within specific projects, such as with United Nations Development Programme in the implementation of the ACT project, and with the Department of Public Information of the Secretariat and the International Telecommunication Union (ITU) in the framework of the dissemination of the Universal Declaration of Human Rights in various linguistic versions. Cooperation with the United Nations Children's Fund (UNICEF) has been developed in the framework of projects concerning human rights education in schools, and with the United Nations Centre for International Crime Prevention and the Latin American Institute for the Prevention of Crime and the Treatment of Offenders, with regard to the OHCHR human rights training package for prison officials.

29. OHCHR has also worked closely with NGOs and academic institutions, both involving them in activities organized by the Office and supporting their human rights education initiatives at the regional, national and local levels. For example, in 2001 OHCHR organized, jointly with UNESCO and the UNESCO Human Rights Chair of the Universidad Nacional Autónoma de Mexico, a regional conference on human rights education in Latin America and the Caribbean.

VI. FOOD

30. The right to adequate food, recognized in several international instruments, has been reaffirmed in the final documents of the two World Food Summits in 1996 and 2002. It requires that every person have physical and economic access at all times to adequate food or to the means for its procurement. The implementation of the right to food requires action not only in the food sector or in food-related sectors, but also in areas such as health, nutritional education, sanitary facilities and infrastructure, among others.

31. Heads of State and Government, meeting at the 1996 World Food Summit, adopted a commitment to act to achieve food security for all and eradicate hunger. The millennium development goals include the target of halving the proportion of people suffering from hunger and unable to reach or afford safe drinking water by the year 2015. Plans of action adopted at the World Food Summits spelled out a series of measures, which are in the process of being implemented, in the areas of poverty reduction; access to resources, functioning markets and trade; food assistance; and international cooperation and solidarity.

32. In response to the Rome Declaration and Plan of Action, adopted by the 1996 Summit, the Committee on Economic, Social and Cultural Rights, adopted general comment No. 12, in which it clarifies the content of the right to food under the International Covenant on Economic, Social and Cultural Rights. This general comment constitutes valuable guidance for States in the implementation of this right.

33. Also in response to the Rome Declaration and Plan of Action and the Declaration of the World Food Summit: five years later, in November 2002, the Food and Agriculture Organization of the United Nations (FAO) established an intergovernmental working group with the task of elaborating, with the participation of stakeholders, over a period of two years, a set of voluntary guidelines to assist States in their efforts to achieve the progressive realization of the

right to adequate food in the context of national food security. OHCHR cooperates with FAO in providing substantive and secretariat support to the working group, and facilitates the contribution of treaty monitoring bodies and special procedures to the process.

34. In 2000, the Commission on Human Rights appointed a Special Rapporteur on the right to food, requesting the mandate holder (a) to collect relevant information on all aspects of the right, including the urgent necessity of eradicating hunger; (b) to establish cooperation with relevant actors; and (c) to identify emerging issues related to the right to food worldwide. Subsequently, the Commission also asked the Special Rapporteur mandate to pay attention to the issue of drinking water and to mainstream a gender perspective in the activities relating to the mandate. In his last report (E/CN.4/2003/54), the Special Rapporteur described his activities to promote greater awareness and implementation of the right to food, including his official missions. The Special Rapporteur undertook three country missions, to Niger (2001), Brazil (2002) and Bangladesh (2002), and is participating in the aforementioned process of elaborating voluntary guidelines. This mandate was recently renewed for another three-year term.

35. Food assistance, including international food aid, is an important component of efforts to realize the right to adequate food in the context of natural and other emergencies in which individuals and groups become unable to provide food for themselves. United Nations food relief agencies provide food assistance in combination with assistance in other areas so as to ensure people's long-term self-reliance in the procurement of food. United Nations food agencies are currently examining the applicability of a human rights-based approach to their activities.

36. The right-to-food perspective in achieving food security or in the provision of food assistance emphasizes the short- and long-term needs of people and ensures that activities are carried out in full respect for their dignity. It seeks to empower the poor and hungry so as to make reality the principles of participation, accountability and transparency, which are necessary to ensure sustainable access to food for all.

VII. HOUSING

37. At the Millennium Summit, world leaders resolved to bring significant improvement to the lives of at least 100 million slum dwellers by 2020. The rapid expansion of urban populations, especially in developing countries, has had a serious impact on the living conditions of many of the poorer segments of the population. In developing countries alone, the United Nations Human Settlements Programme (UN-Habitat) estimates that more than 1 billion people live in substandard housing conditions. This increasing population of "housing poor" are being denied one of the basic components of the right to an adequate standard of living as outlined in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights.

38. The Commission on Human Rights appointed the Special Rapporteur on adequate housing in 2000, and recently renewed his mandate for another three-year term. In his last report (E/CN.4/2003/5) the Special Rapporteur reviewed his main activities since 2000 and outlined emerging issues that require the attention of the international community for the realization of rights relevant to the mandate. The Committee on Economic, Social and Cultural Rights adopted

general comment No. 4, "The right to adequate housing (art. 11 (1) of the Covenant)", in 1991 and No. 7, "The right to adequate housing (art. 11 (1) of the Covenant): forced evictions", in 1997; these are widely recognized as the most authoritative legal interpretation of the human right to adequate housing.

39. In building upon these normative developments and progress at the global policy level, there has been an increased emphasis on the need to further operationalize the rights relating to adequate housing, in order to assist the efforts of the State in this regard. To this end, in 2002, OHCHR and UN-Habitat established the joint United Nations Housing Rights Programme (UNHRP), pursuant to the mandates given by their respective legislative bodies. UNHRP has five areas of focus: (a) advocacy, outreach and learning from partners; (b) support for United Nations human rights mechanisms on housing rights; (c) monitoring and evaluation of the progress of realization of housing rights; (d) research and analysis on issues relating to housing rights; and (e) capacity-building and training for the monitoring and implementation of housing rights.

40. An important objective of UNHRP has been to encourage further development of rights-based approaches in housing and human settlements. In some countries, the right to adequate housing is entrenched in legislation and Governments adopt policies and programmes to support individuals and community initiatives (A/S-25/3, box 8). A number of cities have pioneered innovative approaches to housing and human settlements that are in line with human rights norms and principles, such as participatory budgeting (see E/CN.4/2003/5). OHCHR will continue to work with UN-Habitat, as requested by the Commission in its resolution 2003/27, to compile indicative ideas and practices that can be consulted by States. The two agencies have already identified some areas of action within an overall human rights-based approach, which focuses on: (a) empowering the poor and the homeless; (b) advocating for security of tenure, particularly for women and vulnerable groups; (c) eliminating forced evictions and discrimination in the housing sectors; and (d) promoting equal access to housing and to reparation in cases of housing rights violation.[1]

VIII. DISABILITY

41. Various surveys on disability estimate that over 600 million persons - approximately 10 per cent of the world's total population - suffer from some type of disability. Over two thirds of them live in developing countries. While their living conditions vary, they are united in one common experience: being exposed to various forms of discrimination and social exclusion which prevent them from exercising their rights and freedoms.

42. In the past, persons with disabilities suffered from relative "invisibility" and tended to be viewed as "objects" of protection, treatment and assistance rather than subjects of rights. This approach, commonly referred to as a "medical model" or a "welfare model" of disability, located the "problem" within the person, viewed as an object for clinical or welfare interventions. Persons with disabilities were excluded from mainstream society, and provided with special schools, sheltered workshops and separate housing and transportation on the assumption that they were incapable of coping, either with society at large, or all or most major life activities. In practice, they were also frequently denied equal access to basic rights and fundamental freedoms. In the last two decades, the approach towards persons with disabilities has changed and they

have started to be viewed as holders of rights. Under this approach, the "problem" of persons with disabilities is located outside the person and in the society. It follows that it is for the State to tackle socially created obstacles in order to ensure full respect for the dignity and the human rights of persons with disabilities.

43. The shift to a rights-based approach has been authoritatively endorsed by the United Nations, and is reflected in several developments which have taken place at the international and national levels since the proclamation by the General Assembly in its resolution 31/123 of the year 1981 International Year for Disabled Persons, with the theme "full participation".

44. Four core values of human rights law are of particular importance in the context of disability:

(a) The dignity of each individual;

(b) The concept of autonomy or self-determination;

(c) The inherent equality of all regardless of difference;

(d) The ethic of solidarity, which requires society to sustain the freedom of the person with appropriate social supports.

45. In 2000, the Commission on Human Rights, in its resolution 2000/51, invited the United Nations High Commissioner for Human Rights to examine measures to strengthen the protection and monitoring of the human rights of persons with disabilities. The OHCHR programme aims at (a) facilitating the integration of disability issues in the activities of treaty bodies and special procedures; (b) supporting discussions concerning the elaboration of a new thematic convention on the human rights and dignity of persons with disabilities; and (c) supporting the Special Rapporteur on disability of the Commission for Social Development in his activities aimed at reinforcing the social development dimension of disability. The study commissioned by OHCHR on human rights and disability,[2] published in November 2002, is the first outcome of this project.

46. In December 2001, the General Assembly, in resolution 56/168, established an Ad Hoc Committee "to consider proposals for a comprehensive and integral international convention to protect and promote the rights and dignity of persons with disabilities". OHCHR actively participates in the work of the Ad Hoc Committee. Its efforts in this context aim at enhancing the equal effective enjoyment of all human rights by persons with disabilities, and at ensuring that as a minimum any drafting efforts build on existing human rights standards. OHCHR also encourages the participation of national human rights institutions and NGOs (in particular those established by persons with disabilities) in the ongoing consultations.

47. OHCHR will also continue working to ensure that disability-related concerns are effectively reflected in the activities of the treaty bodies. The study on human rights and disability showed that the United Nations human rights treaties have considerable applicability in the field of disability. In recent years, treaty bodies have started to treat disability as a human rights issue. In 1994, the Committee on Economic, Social and Cultural Rights adopted general

comment No. 5, "Persons with disabilities", which stresses that "even in countries which have a relatively high standard of living, persons with disabilities are very often denied the opportunity to enjoy the full range of economic, social and cultural rights recognized in the Covenant". The Committee on the Rights of the Child has organized a day of general discussion on children with disabilities. Such initiatives importantly contribute to a better understanding of the potential of existing human rights instruments in this area.

48. Finally, the Office will continue its close cooperation with the Special Rapporteur on disability of the Commission for Social Development in her efforts aimed at reinforcing the social development dimension of disability. In this regard, OHCHR provides support to the Special Rapporteur in the implementation of the 1993 United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities and the adoption of the proposed supplement to the rules (E/CN.5/2002/4, annex).

IX. TRAFFICKING IN PERSONS

49. Human trafficking is one of the most serious challenges on the international human rights agenda today. It represents the denial of the right to liberty and security of the person; the right to freedom from torture, violence, cruelty or degrading treatment; the right to freedom of movement; the right to protection of the family; the rights to education, health and education - everything that makes for a life with dignity. Therefore, for OHCHR, any initiative to combat trafficking in persons implies an approach which promotes and strengthens the rights of those vulnerable to becoming victims of the crime. Consequently, the rights-based approach is integral to the OHCHR intervention in the prevention on trafficking.

50. Despite its overwhelming human rights dimensions, trafficking continues to be addressed as a "law and order" problem, and primarily within the crime prevention framework. In most parts of the world, victims of cross-border trafficking are criminalized and prosecuted as illegal aliens, undocumented workers or irregular migrants rather than as victims of a crime. In addition, lack of an adequate legal framework with which to combat trafficking, insufficient research and methodological tools, the absence of evaluation indicators, insufficient coordination nationally, regionally and internationally, in addition to the changing contours of the crime and the modus operandi of the perpetrators all contribute to the complexity of the issue.

51. The goal of OHCHR in this area is to integrate human rights into international, regional and national anti-trafficking initiatives through legal and policy development. The project has four basic objectives:

(a) To enhance and ensure the capacity of the High Commissioner to provide policy guidance on the issue of trafficking;

(b) To strengthen the capacity of OHCHR and the United Nations human rights system to deal with the human rights dimension of trafficking;

(c) To ensure the integration of a human rights perspective into the anti-trafficking work of other United Nations agencies and programmes and to raise awareness and knowledge of trafficking as a human rights issue throughout the United Nations system;

(d) To encourage Governments and organizations (intergovernmental organizations, international and national NGOs and national human rights institutions) to consider the issue of trafficking in their policies and activities.

52. During 2002, major OHCHR activities included:

(a) Preparation and publication of the Recommended Principles and Guidelines on Human Rights and Human Trafficking (E/2002/68/Add.1);

(b) Strengthening and expansion of the Intergovernmental Organizations (IGO) Contact Group on Human Trafficking and Migrant Smuggling (the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO), the International Organization for Migration (IOM), OHCHR and the NGO caucus on trafficking), to include representatives from UNICEF, the World Health Organization (WHO) and the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) and the Council of Europe;

(c) Together with UNICEF and OSCE/ODIHR, publication of a major report entitled *Trafficking in human beings in Southeastern Europe*;

(d) Provision of advice on planned international legislation, e.g. the proposed European Convention on trafficking, the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution adopted in January 2002 in Katmandu;

(e) Advice on legislation and practice at the country level.

53. OHCHR cooperates closely with United Nations agencies and programmes involved in this area. In partnership with the United Nations Office on Drugs and Crime (UNODC) and the Division for the Advancement of Women of the Secretariat, a legislative guide of rights-based good practices in the arena of trafficking is being prepared. OHCHR and UNODC also collaborate to integrate human rights into crime prevention and victim assistance. Cooperation with ILO focuses on the implementation of the Recommended Principles and Guidelines in the area of forced labour and migration. In the framework of the IGO Contact Group on Human Trafficking and Migrant Smuggling, OHCHR collaborates with the other members on policy issues relating to trafficking. Currently, a strategy for promoting 2004 as the United Nations year on trafficking is under discussion and OHCHR will coordinate an inter-agency group beginning in July 2003. The United Nations inter-agency Joint Initiative on Trafficking project will be scaled up in South Asia.

54. One can conclude that fundamental tools for integrating human rights into anti-trafficking policy and legislation have been developed. Activities in the next phase of the programme are geared towards the production of implementable versions of these tools, handbooks for anti-trafficking advocates and practitioners, increased collaborative interventions, including pilot projects with other United Nations agencies, and the development of rights-based indicators to assess the impact of anti-trafficking initiatives on the ground.

55. In view of the growing recognition of the need to address the issue of trafficking in the context of human mobility and migration, and as part of a process launched by the Secretary-General in order to strengthen coordination among relevant United Nations agencies and other organizations in the field of migration, OHCHR participated in high-level preliminary discussions with UNHCR, ILO and IOM. This process, which in the future will involve other partners, including UNODC, is aimed at achieving greater cooperation and at joining efforts, resources and expertise for enhanced leadership on issues relating to migration, including the fight against trafficking in persons. OHCHR will assist in addressing migration-related issues from a human rights perspective and in mainstreaming human rights into all stages of migration. By doing so, OHCHR could also assist in fostering dialogue and debate on the need to complement the protection of the victims of trafficking and irregular migration by efforts to tackle the causative factors of these phenomena. The work undertaken by OHCHR to promote the adoption and implementation of a broad legislative framework for the protection of the human rights of migrants is also particularly relevant in this regard. The International Convention for the Protection of the Rights of All Migrant Workers and Members of Their Families, which will shortly enter into force, provides a broad legislative framework to prevent irregular migration and trafficking.

X. GLOBALIZATION AND TRADE

56. OHCHR has continued working on issues relating to human rights, globalization and trade over the past year. In this context, the High Commissioner has underlined the fact that while the promotion and protection of human rights is an imperative for States, they should also shape the conduct of business. By linking the norms and standards of international human rights law to the processes of globalization and trade liberalization, a human rights approach seeks to place the human rights of individuals and groups at the heart of economic processes so that globalization and trade can benefit all. A key response to globalization and trade therefore is to strengthen the international human rights machinery, to improve linkages between human rights bodies and those dealing with trade and globalization issues, and to ensure international cooperation and assistance to promote and protect human rights and fundamental freedoms, and thus human development. Special rapporteurs, independent experts and treaty bodies all have a fundamental role to play in promoting a human rights approach to globalization through their monitoring and promotion functions. As an illustration of the relevance and impact of globalization for human rights bodies, it is worth recalling that this issue was selected as the topic of discussion for the fifth annual joint meeting of chairpersons of treaty bodies and special procedures mandate-holders in June 2003.

57. In August 2002, the High Commissioner submitted a report to the Sub-Commission on the Promotion and Protection of Human Rights on the liberalization of trade in services and human rights (E/CN.4/Sub.2/2002/9). The report reviewed the diverse effects that liberalization can have for the enjoyment of human rights, noting in particular that increases in foreign direct investment (FDI) can upgrade national infrastructures, introduce new technology and provide employment opportunities, but that the liberalization of FDI flows without adequate regulation can have undesirable effects on the enjoyment of human rights, particularly where FDI in essential services sectors leads to an overemphasis on commercial objectives at the expense of social objectives.

58. To maximize positive effects and minimize undesirable effects of the liberalization of trade in services, the High Commissioner encourages opening services sectors on the basis of human rights impact assessments. In the context of the General Agreement on Trade in Services of the World Trade Organization (WTO), the High Commissioner encourages greater dialogue between trade and human rights practitioners; interpretations of trade provisions that are compatible with international human rights law; progressive liberalization of trade in services that is informed by the results of human rights impact assessments of trade policies; and the improved provision of international cooperation and assistance to ensure that essential services reach the poor.

59. OHCHR has also participated in inter-agency activities, forwarding written submissions on human rights approaches to globalization, in November 2002 and March 2003, to the ILO World Commission on the Social Dimensions of Globalization and participating in a learning session on human rights and trade for staff of the World Bank in June 2003.

60. The Commission on Human Rights and the Sub-Commission address the issue of globalization and human rights at their sessions. This issue is also addressed by the Commission's Working Group on the Right to Development. The Sub-Commission's sessional working group on the working methods and activities of transnational corporations submitted draft norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights (E/CN.4/Sub.2/2002/13, annex) to the Sub-Commission at its fifty-fourth session in August 2003. The draft norms set out particular obligations for corporations in relation to workers' rights, equal opportunity and non-discrimination, respect for the security of persons, respect for national sovereignty, consumer protection and environmental protection.

XI. CONCLUSION

61. The links between social, economic and other spheres of the life of individuals and society find their reflection in the holistic concept of human rights, reiterated in the Vienna Declaration and Programme of Action, which says: "All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis." The United Nations human rights programme is based on and implements this concept.

62. The call by the Secretary-General in 1997 for the integration of human rights into programmes and activities systemwide was widely and positively echoed by the United Nations. Agencies and programmes have responded by adopting a three-track approach: (a) increasingly applying the human rights approach to programming their own core activities; (b) developing specific human rights projects within their own mandates; and (c) involving human rights in inter-agency cooperation. This process, although significantly advanced in some areas, has not yet been completed. An important vehicle for it will be provided by the implementation of the Secretary-General's recommendation to enhance United Nations efforts at the country level to strengthen the national capacities for the promotion and protection of human rights, as articulated in his 2002 report "Strengthening of the United Nations: an agenda for further change" (A/57/387).

63. That human rights must be integrated across the United Nations system is a consequence of their potential in shaping not only the life of an individual but also of local communities, nations and the international community. Human rights as a legal commitment of States and Governments and as a moral responsibility of other actors provide a unique, commonly accepted guiding and measuring tool in different areas of human activity. Moreover, as documented by numerous examples, applying an approach that integrates human rights in development, humanitarian and conflict-resolution schemes, and political, economic and cultural life makes our efforts more effective and responsive to human needs because it leads to empowering people, ensuring their participation in decision-making and implementation, and making control instruments efficient.

64. The United Nations human rights programme, including OHCHR, is also undergoing changes in response to the evolving role of human rights within the United Nations. The Office has opened its programme to the areas of development and humanitarian work; conflict prevention and resolution and peace-building; the rule of law, democracy and good governance; and economic and social life, as illustrated in this report. This is work in progress, but its objectives are clear: strengthened links between the human rights treaty bodies and special procedures and the different parts of the United Nations system; ensuring better and more timely flow of human rights expertise; enhanced ability by OHCHR to respond to the needs of partners integrating human rights in their programmes, in particular through support for the United Nations country teams, either directly or from the regional human rights resource centres; more focused specialization of the expertise developed in OHCHR with prioritizing areas of the Office's comparative advantage, such as the human rights-based rule of law and human rights guidance in poverty reduction, health protection, education, housing and trafficking in persons.

65. These important processes require continued efforts to develop partnerships with all actors involved in human rights and related areas. While the goal of OHCHR is to remain at the centre of human rights work, we are determined to cooperate and share expertise, knowledge and responsibility with governmental and non-governmental partners, and with partners within and outside the United Nations. Human rights need interaction and partnerships; OHCHR is guided by the imperatives of this need.

Notes

[1] For further information, see http://www.unhabitat.org/unhrp or http://www.unhchr.ch/housing.

[2] G. Quinn and T. Degener, *Human Rights and Disability: the Current Use and Future Potential of United Nations Human Rights Instruments in the Context of Disability* (HR/PUB/02/1), United Nations, New York and Geneva, 2002.
